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Chairman: Mr. Kmoníček ..... (Czech Republic)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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The meeting was called to order at 10.15 a.m.

Agenda item 127: Human resources management (*continued*) (A/58/283, A/58/666; A/C.5/58/L.13)

1. **Ms. Haji-Ahmed** (Office of Human Resources Management) said that the written responses of the Office of Human Resources Management to the questions raised by the members of the Committee at its 32nd meeting had been circulated. They were divided into two parts. Part One focused on questions on the report of the Secretary-General on the composition of the Secretariat (A/58/666) and the report of the Secretary-General on the list of staff of the United Nations Secretariat (A/C.5/58/L.13). The Secretary-General took the view that equitable geographic representation of Member States and gender parity were important, and he would work to improve both.

2. On the basis of its analysis, the Office of Human Resources Management had concluded that the problem of underrepresented and unrepresented Member States had become less acute, including in the case of African Member States, whose representation had increased from 189 to 229, or by 21.2 per cent, between 1999 and 2003. Nationality details for senior-level staff subject to geographical distribution were in table A.9 of the annex to the report, which contained comprehensive statistical tables.

3. The number of women staff at decision-making levels who were nationals of African Member States had increased from 27 in 1999 to 42 in 2003. Table 1 in Part One of the responses also gave information, broken down by nationality, on the number of women recruited or promoted to decision-making positions in the Secretariat.

4. Part Two of the responses provided clarification and information on matters raised in connection with the Secretary-General's bulletin on family status for purposes of United Nations entitlements (ST/SGB/2004/4).

5. There had been no recent changes to the Staff Regulations and Rules dealing with family status of staff members and their entitlements in that regard, and the Staff Regulations and Rules contained no definition of "marriage" or "spouse".

6. It had been the consistent practice to determine the family status of individual staff members by reference to the law of the country of their nationality, thereby ensuring that the Organization fully respected the cultural diversity of all its Member States, maintained a strictly neutral position and accepted the Member States' determination regarding its nationals in the culturally sensitive matter of who was a "spouse".

7. The basis for issuing the bulletin was that Article 97 of the Charter made the Secretary-General chief administrative officer of the Organization, with the authority to interpret the Staff Regulations either directly or through a designated official. The position of the bulletin was neutral, implying no general recognition of the validity of same-sex marriages, or heterosexual or other domestic partnerships, but reflecting changes in the laws of Member States when administering the entitlements of staff members who were nationals of those Member States.

8. Budgetary requirements to fund staff entitlements were incorporated routinely in the overall common staff costs component of established posts and temporary assistance provisions of the programme budget. It was not thought that the bulletin would produce any discernible financial impact on common staff costs.

9. **Mr. Elnaggar** (Egypt) said that he recognized that the Staff Regulations and Rules did not define "marriage" or "spouse" or contain internal family law provisions, but wished to know how the bulletin affected that situation, since to state that recognition under the law of the country of nationality of a staff member would confer entitlement to benefits was tantamount to a definition.

10. According to the responses of the Office of Human Resources Management, the practice of determining the family status of staff members by reference to the legislation of their country of origin had been explained in a memorandum of the Office of Legal Affairs dating back to 1981. He therefore wondered why the provisions in the bulletin had been introduced not in 1981, but in 2004.

11. His delegation understood that it was the prerogative of the Secretary-General to interpret the Staff Regulations and Rules, but wondered why the bulletin had been issued if the Staff Regulations and Rules had not been changed. He also wished to know the legal interpretation of the statement made by the Secretary-General on 16 March 2004 that the matter in

question would be considered by the General Assembly, and whether that statement meant that he was awaiting a directive from the Assembly.

12. In its resolution 57/286, recalling its resolution 55/224, the General Assembly had requested the Board of the United Nations Joint Staff Pension Fund to review survivors' pension entitlements because it had been unable to reach a consensus on that issue. That showed that the General Assembly had already expressed a view on one aspect of the bulletin and called into question its legality.

13. Finally, according to the responses of the Office of Human Resources Management, the bulletin would have "no discernible financial impact". Since English was not his mother tongue, that statement was unclear and he would like it explained.

14. **Ms. Wahab** (Indonesia) said that although the responses of the Office of Human Resources Management maintained that the Staff Regulations and Rules contained no definition of "marriage" or "spouse", the Staff Regulations and Rules referred to "husband" and "wife", indicating that they did not accommodate same-sex marriage and that the bulletin was inconsistent with their provisions.

15. She wished to know the history of the 1981 memorandum of the Office of Legal Affairs. The bulletin covered United Nations personnel, so she wondered whether the national law of a staff member's country of nationality could apply to that staff member without the agreement of all Member States.

16. **Mr. Farid** (Saudi Arabia), referring to the response regarding the compatibility of the bulletin with the existing Staff Regulations and Rules and its legal justification, said that he would like two issues to be clarified. The first was the incompatibility between the bulletin and the Staff Regulations and Rules mentioned by the representative of Indonesia. The second was the compatibility between the current case and the condition, mentioned in the 1981 memorandum of the Office of Legal Affairs, that common-law marriages could be recognized only if recognized as legally effective. He questioned the assertion that the bulletin was neutral and failed to imply recognition in principle of same-sex marriages Any action carrying budget implications must obtain the consensus of the Fifth Committee as the intergovernmental body with responsibility for financial matters. The bulletin certainly carried budget imolications. He wished to know, lastly, whether the Staff Union had been consulted on the matter.

17. **Mr. Zacklin** (Officer-in-Charge of the Office of Legal Affairs) said that from the point of view of the administration of the Organization by the Secretary-General, in his capacity as its chief administrative officer, there was one core issue to consider. Since the founding of the Organization, interpretation of regulations and rules on family status and determination of family status had been made with reference to the law of nationality of individual staff members. That principle, reflected in the 1981 legal opinion, had been applied by the current Secretary-General and all his predecessors for good reason. The Organization, its staff and the Staff Rules would be impossible to administer in any other way, especially given that the United Nations had 191 Member States.

18. Turning to the question of the representative of Egypt regarding the interval between the legal opinion of 1981 and the issuance of the bulletin in 2004, he said that family status issues had evolved in many countries in that period. The evolution had included what were referred to as same-sex marriages and domestic partnerships. The Secretary-General had promulgated the bulletin because, in contrast to the situation 10 or more years previously, the evolution of laws in some jurisdictions had reached the point where the guiding principle mentioned in the 1981 opinion must be implemented.

19. The assertion that the bulletin was neutral was based on the neutral principle which the Secretary-General used to interpret rules on family status. The issue, which any lawyers present would recognize, was one of "choice of law". The purpose of the bulletin was not to address the substance of same-sex marriage or domestic partnerships, but rather to state a principle of constant practice followed by all Secretaries-General.

20. Several members of the Committee had asked whether the bulletin had introduced new definitions. In fact it contained none, having been confined to establishing the choice of law used by the Secretary-General in determining family status.

21. The Secretary-General, according to the unofficial transcript of his morning meeting with the press on 16 March 2004, had expressed the view that he had tried to interpret the Organization's rules and regulations fairly, guided by national laws, and would wait to see what the General Assembly decided. That

indicated that he regarded the bulletin as a proper interpretation of the Staff Regulations and Rules, guided by national laws and carried out in the proper context of his authority under the Charter.

22. The Secretary-General had referred to the General Assembly because he was aware that the Fifth Committee was considering the matter, rather than because he believed that the General Assembly should take a decision on it, since he took the view that he had the authority to issue the bulletin. If the Member States decided to overrule the bulletin, it would be a matter for them, but any rumour that the Secretary-General was planning to withdraw it was unfounded.

23. **Mr. Elnaggar** (Egypt) said that the Secretary-General was lucky to have officials who interpreted his conversations with the press. His delegation, meanwhile, thought it more appropriate to examine the Secretary-General's own words.

24. He had listened carefully to the answers of the Office of Legal Affairs and wished to comment on them. Firstly, he wondered if the guiding principle described in the 1981 legal opinion had been brought before the General Assembly. Secondly, while the bulletin had mentioned domestic partnerships, it had not specifically mentioned same-sex marriage. He wished to thank the representative of the Office of Legal Affairs for bringing it directly to the attention of the Committee and opening the way for substantive discussion of what was the true crux of the matter.

25. Thirdly, given that legal evolution was by nature continuous, he asked, hypothetically, what would prevent a staff member from invoking a local law dating from 1989, for example, to claim retroactively an entitlement which the Organization had not recognized until 2004 through what he preferred to regard as the Secretariat bulletin.

26. Finally, since the representative of the Office of Legal Affairs had indicated that the bulletin did not change existing rules and regulations, which must be interpreted in the context adopted by the General Assembly, he wished to know if the bulletin would force a change in the language of Staff Rule 104.10 on family relationships, and specifically paragraph (d), which referred to entitlements.

27. **Mr. Tootoonchian** (Islamic Republic of Iran) requested more information from the representative of the Office of Legal Affairs. He was not a legal expert, but believed that the issue under discussion related to private international law and therefore wondered how it might be possible to resolve the conflict between the criteria in the Staff Regulations and Rules and the criteria set out in the national laws of Member States, for determining effective nationality. He wondered further whether a particular national law could be applied even if to do so jeopardized public order and public decency provisions in other national legal systems.

28. **Mr. Farid** (Saudi Arabia) asked whether the United Nations Staff Union had been consulted prior to the issuance of the Secretary-General's bulletin and how many Member States had laws recognizing domestic partnerships.

29. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, proposed that, since some speakers were now touching on the substance of the issue, the Committee should pursue the matter in informal consultations.

30. **Mr. Roshdy** (Egypt) said that his delegation would prefer to continue in a formal setting since there was a need to have a record of the important issues being raised.

31. Far from ensuring respect for cultural diversity, the Secretariat was seeking to impose a concept that ran counter to the laws and values of many Member States. His Government would find it difficult to explain why Egypt's assessed contributions were being used to further ideas that were unacceptable to Egyptians. Noting that certain countries had defence of marriage acts that prohibited the allocation of Government funds to pay benefits to unmarried partners, he asked whether the Secretariat would use the assessed contributions of those countries for a purpose that contravened their laws. He also wished to know whether staff members who had contracted legally recognized domestic partnerships prior to the issuance of the Secretary-General's bulletin would now be able to sue to receive benefits retroactively and how the Secretariat would resolve cases in which a domestic partnership contracted between two staff members was recognized under the law of the country of nationality of one partner but not the other. Lastly, it would be interesting to know why the Secretary-General had sought the guidance of the General Assembly four years earlier on the issue of survivors' pension entitlements but was now proceeding without it.

32. **Mr. Kramer** (Canada) said that it was not clear to him what the Committee would discuss should it pursue the matter in informal consultations. The issuance of the Secretary-General's bulletin would not give rise to any discernible financial impact on common staff costs. The Secretary-General had the authority to interpret the Staff Regulations and Rules, while the Secretariat was simply continuing to apply national laws. If the Secretary-General had needed the guidance of the General Assembly he would surely have sought it, regardless of his comments to the press. The clarifications provided by the Secretariat had reinforced his conviction that the Secretary-General had acted within his purview. The Committee was mandated to consider administrative and budgetary matters and could add no value to a discussion of social norms. It should therefore conclude its consideration of the matter and move on to other items on the agenda.

33. **Mr. Alarcón** (Costa Rica) said that his country had always supported human rights and believed firmly in the self-determination of peoples with regard to laws, customs and cultural traditions. For those reasons, it supported granting benefits to staff members of the Organization in accordance with the legislation of their Member States of origin. Its support was motivated by a desire to modernize and improve working conditions and to respect the cultural diversity and national legislation of Member States and the concepts which such legislation reflected in their home environment. While its own laws did not contain certain family- and marriage-related concepts which did exist in the laws of other States, Costa Rica had no wish to challenge the laws of those States.

34. Based on the discussions he had heard, he supported the suggestion of the representatives of Canada and the European Union to hold informal consultations rather than continue the formal meeting. Indeed, he wondered if discussion should continue at all, since the business of the Fifth Committee was to consider budgetary implications and the Secretariat had explained that there were none.

35. **Ms. Haji-Ahmed** (Office of Human Resources Management) said that the Staff Union had not been consulted prior to the issuance of the Secretary-General's bulletin. The Secretary-General had been obliged to seek the guidance of the General Assembly on the issue of survivors' pension entitlements, as the United Nations Joint Staff Pension Fund was not under his authority. The budgetary provisions for staff entitlements reflected the Organization's overall long-term expenditure in that area and were not adjusted on the basis of individual cases; that would not be practical since staff members had different entitlements over the course of their careers.

36. **Mr. Rashkow** (Director of the General Legal Division) said that if two staff members contracted a domestic partnership and applied for entitlements, the Secretariat would determine their eligibility by reference to the law of the country of nationality of the staff member submitting the claim. However, no such situation had arisen.

37. **Mr. Farid** (Saudi Arabia) asked whether any staff members had received entitlements pursuant to the Secretary-General's bulletin and, if so, whether they would be expected to return the moneys should the Committee declare the bulletin invalid.

38. **Mr. Tootoonchian** (Islamic Republic of Iran) said that he agreed that the Committee should conclude its consideration of the matter as expeditiously as possible. However, the Secretariat should first answer all the questions raised, which touched on very sensitive issues.

39. **Mr. Roshdy** (Egypt) said that it was still not clear to his delegation whether staff members could now sue the United Nations.

40. **Mr. Alarcón** (Costa Rica) said that the Secretariat had already explained the financial implications of the decision. The Committee was lapsing into a debate on concepts and he must reiterate that his country had absolute respect for cultural diversity. Costa Rica did not recognize polygamy and he would welcome confirmation from the Secretariat as to whether the Organization granted benefits which staff members could choose to allocate to more than one partner or marital partner.

41. He wished to avoid a debate on what constituted a family, a couple or a marriage. In the absence of financial implications there was nothing for the Committee to discuss and it should therefore move to informal discussions or suspend its meeting. The Secretariat should also indicate whether there was any precedent for the Committee approving or rejecting a bulletin of the Secretary-General.

42. **Ms. Stanley** (Ireland), speaking on behalf of the European Union, said that the issue was not whether the Committee could agree on a definition of family

status. By referring to the law of staff members' countries of nationality, the Secretary-General recognized the diversity existing among Member States while remaining neutral on the matter. To question that approach was to question the practice of the past 50 years. The Secretariat had answered all the questions put by delegations and there was nothing more to discuss. The Committee should therefore adjourn the debate.

43. **Ms. Santos-Neves** (Brazil) expressed support for the statement made by the representative of Canada. For her delegation, the authority of the Secretary-General was not in question. The issue under discussion was a choice of law matter and, as such, could not be determined by the Committee. She therefore saw little point in pursuing it in informal consultations.

44. **Mr. Roshdy** (Egypt) said that the United Nations did not grant any additional entitlements to staff members with more than one wife. The issue of polygamy was thus irrelevant. It was regrettable that the representative of Costa Rica had raised it since his comments had betrayed a lack of respect for other cultures. Countries in which domestic partnerships were recognized should not try to impose their values on others; the countries in which polygamy was practised certainly did not. Lastly, he trusted that he would hear no more culturally insensitive comments in the course of the debate.

45. **Mr. Alarcón** (Costa Rica) endorsed the statement made by the representative of Ireland on behalf of the European Union and expressed regret for any offence caused by his previous statements. His intention had been to convey his delegation's views on cultural diversity. Various forms of the family existed, as was recognized in the Plan of Action adopted at the General Assembly's special session on children. Costa Rica's laws did not permit either polygamy or same-sex marriage, but his delegation recognized the right of each Member State to have its laws applied to its nationals. It also welcomed the enhancement of the entitlements of United Nations staff. If members wished to discuss the matter further, they should confine themselves to its financial aspects since the Committee was not the appropriate forum for a debate on the substance.

46. **Ms. Wahab** (Indonesia) said that any issue relating to staff members' entitlements and the use to which Member States' assessed contributions were put was within the Committee's purview. Her Government would find it difficult to explain why a portion of Indonesia's assessment was being used to fund measures that were prohibited by its laws. She agreed with the representative of the Islamic Republic of Iran that the Committee should pursue its consideration of the matter until all the questions raised by delegations had been answered.

47. **Mr. Al-Mansour** (Kuwait) expressed support for the statements made by the representatives of Egypt and the Islamic Republic of Iran. The debate on the issue should continue so long as there were questions pending.

48. **Ms. Buchanan** (New Zealand) said that her Government's views on the matter had been very ably expressed by the representative of Canada at the Committee's 32nd meeting, where he had spoken on behalf of her delegation and that of Australia. Having listened to the clarifications provided by the Secretariat, she was more convinced than ever that the approach taken by the three delegations had been correct and that the issue at stake was the continuing application to staff members of the laws of their countries of nationality. She agreed with previous speakers that the Committee was now entering into a debate that went beyond its purview.

49. **Mr. Hønningstad** (Norway) said that the answers given by the Secretariat had reinforced his delegation's view that the Secretary-General had acted within his authority. As the representative of New Zealand and others had stated, the matter under discussion was not within the Committee's remit, and his delegation therefore saw no reason to pursue it in informal consultations.

50. **Mr. Dutton** (Australia) said that his delegation was fully satisfied that the Secretary-General had acted within his authority and in accordance with the Staff Regulations and Rules and the long-standing principle that the family status of staff members should be determined by applying national laws. Each country had the sovereign right to determine family status within its jurisdiction. The Committee was not the appropriate forum for a substantive debate on the issue. While delegations were entitled to put questions, the Secretariat had already provided comprehensive responses. The matter under discussion did not require a decision by the Committee, and no action had been

requested of it. It would therefore be pointless to proceed to informal consultations.

51. **Mr. Elnaggar** (Egypt) said that his delegation had not intended to initiate a discussion of the substantive issues. It was the Secretariat that had raised those issues, and in a rather blunt manner. His delegation wished to confine itself to the administrative and budgetary implications of the Secretary-General's bulletin, which were within the Committee's purview. The Secretariat had yet to answer many of the questions posed. For example, it was still not clear whether the issuance of the bulletin would necessitate the amendment of staff rule 104.10 and, if that was the case, whether the Secretary-General would consult the General Assembly before promulgating the text of the amendment, as he had in the past. During the press encounter on 16 March 2004, the Secretary-General had said that he had tried to interpret the Staff Regulations and Rules fairly and that he would wait to see what the Assembly decided. His delegation was not certain what was expected of the Assembly. However, it feared that if the Committee remained silent on the matter, that would be interpreted as acceptance of the Secretary-General's interpretation. It would welcome clarification in that regard.

52. **Ms. Astanah Banu** (Malaysia) said that she had difficulty comprehending why the Committee should be taking a decision on a matter that, according to several delegations, was beyond its purview. If the item were in fact beyond the purview of the Committee, she would like to know whether the bulletin should be discussed in a more relevant forum and then brought before the Fifth Committee, if necessary. The Committee should not be taking a decision on a matter that had not been discussed in any other forum within the General Assembly.

53. Furthermore, the matter had already been brought to the General Assembly four years previously and dismissed. The Secretariat, therefore, could not take a decision on it. If the matter was within the purview of the Member States at that time, it was difficult to understand what had changed to remove that authority from them and why it should be subsequently under the Secretary-General's discretion. Such a shift of authority to a single person or group of people was worrisome, because it threatened to erode the democratic decision-making process. Lastly, every Member State must be allowed to take part in decisions on the budget, regardless of the possible financial implications.

54. **Mr. Rahman** (Bangladesh) said that the issue under discussion fell within the purview of the Committee and that the bulletin of the Secretary-General could have financial implications. More clarification was needed on what the representative of the Office of Human Resources Management meant by "discernible", in Part Two of her responses to questions on agenda item 127, when she said there would be no discernible financial impact on common staff costs arising from the Secretary-General's bulletin. If the practice of relying on the national law of staff members to determine marital status was long-standing, it was unclear why such a practice had not been implemented for so many years. Further explanation would also be welcome of why the matter was currently within the purview of the Secretary-General, rather than the General Assembly, as had been the case. Moreover, if the Secretary-General failed to properly interpret the Staff Regulations and Rules, it was imperative that the General Assembly should take up the issue. Finally, comprehensive answers from the Secretariat to all the questions put by the representatives of Iran, Egypt and Indonesia would be welcome.

55. **Mr. Mazumdar** (India) said that the Committee should discuss family status for purposes of United Nations entitlements from a purely budgetary and administrative angle. Some clarification would be welcome from the Secretary of the Committee of whether the Committee had already grappled with the issue during a previous session of the General Assembly and, if so, of the outcome of the debate. With respect to the budgetary implications referred to in the last paragraph of Part Two of the responses of the Office of Human Resources Management, it was unclear whether the financial implications of the bulletin would be met from existing resources.

56. **Mr. Eljy** (Syrian Arab Republic) thanked the Secretariat for its statement on the competitive examination for Arabic interpreters and noted that it had corrected its mistakes with respect to broad distribution of announcements of competitive examinations and vacancies to all missions. He expressed the hope that the Secretariat would continue to abide by its obligation to rectify any errors that it might make and that the pending questions raised by his and other delegations would be answered.

57. **Mr. Abbas** (Pakistan) said that his delegation associated itself with the statements made by the representatives of Egypt, Indonesia, Iran, Malaysia and Saudi Arabia, but did not agree with the explanation given by the Secretariat in Part Two of its responses to questions on agenda item 127, particularly the statement that the position taken in the bulletin was entirely neutral. The Secretary-General's bulletin did have financial implications. The matter therefore fell within the purview of the Committee and further discussion was needed in order to reach a conclusion.

58. **Mr. Tootoonchian** (Islamic Republic of Iran) said that the points raised by the Officer-in-Charge of the Office of Legal Affairs were based on an interpretation of the Staff Regulations and Rules. More clarification was needed on the status of the Secretary-General's bulletin and whether it was intended as an amendment to regulation 12.2 of the Staff Regulations and Rules. It was unclear whether the bulletin would be used to supersede the clear language of the Staff Regulations and Rules on family status, including rules 103.17 (c), 103.21 (b), 104.10 (b) and (d), 107.2 (c), 107.20 (f) and (g), 107.27 (g) and 107.28 (c), among others, which explicitly stated that that status applied to husband and wife. Such a sensitive issue should be decided upon by the Member States themselves.

59. **Mr. Pulido León** (Venezuela) said that Committee attempts to define family status were futile. Such discussions had no place in the Committee. More clarification was needed as to whether the bulletin had budget implications or amended the Staff Regulations and Rules. If it had financial implications, then the Committee should take action. If not, then arrangements should be made to have the item discussed in the appropriate forum.

60. **Mr. Farid** (Saudi Arabia) said that the issue of family status for purposes of United Nations entitlements was a sensitive one which also had financial implications. Saudi national law did not recognize domestic partnerships and his Government could not participate in extending benefits to spouses of nationals of countries that recognized such unions. The Governments of those nationals should pay for such entitlements. The laws of a small number of countries should not be imposed on all Member States. No country could accept that. It would be useful to learn from the Secretariat the percentage of Member States that recognized domestic partnerships. Because the bulletin had financial implications and entailed changes to the Staff Regulations and Rules, the item under discussion was within the purview of the Committee and should be discussed in a formal meeting.

61. **Ms. Haji-Ahmed** (Office of Human Resources Management) said that General Assembly resolution 57/286 dealt with the pension system and that the Regulations of the Pension Fund were not for the Secretary-General to interpret. The Secretary-General's bulletin would not change the text of rule 104.10 (d). Rule 104, with respect to husband and wife and marriage, would be applied in the light of the bulletin. If there were a family relationship in accordance with the bulletin, the entitlements of the two staff members would be modified, as provided for in rule 104.10 (d).

62. The Organization made no value judgements with respect to polygamy. Staff members in polygamous relationships recognized by their national law were entitled to change the status of their beneficiaries without documentation. In the event of the death of the spouse, survivors would receive an equal share of the benefits.

63. Since the issuance of the Secretary-General's bulletin, the Office had processed two cases, both under Dutch law. Two letters had been sent to Permanent Missions and seven cases were under review. Precise data on the number of Member States that recognized domestic partnerships were not available.

64. **Mr. Rashkow** (Director of the General Legal Division) said that the Secretary-General's bulletin did not constitute an amendment to rule 104.10, but was a matter of interpretation of that rule. Entitlements changed over time, but the Staff Rules prevented members from making retroactive claims against the Organization in the light of such changes. Throughout the history of the Organization, changes in entitlements had been forward-looking and reflected developments in national legislation of Member States.

65. **Mr. Sach** (Director of the Programme Planning and Budget Division), referring to his earlier statement that there would be no discernible financial impact on common staff costs arising from the Secretary-General's bulletin, said that the budget was not adjusted for changes in family status of staff members on a case-by-case basis. Changes in family status among the entire staff, such as a change in marital status or in the number of dependent children, had little

long-term effect on common staff costs, which tended to even out over time. The bulletin, which could involve as little change in staff costs as less than 0.1 per cent, would not necessitate any budgetary adjustments.

66. **Mr. Roshdy** (Egypt) said that the Office of Human Resources Management had made it clear that the Secretariat did not make value judgements and that staff members had the right to choose their beneficiaries. The Office had also said that rule 104.10, on family relationships, would be interpreted in the light of the bulletin, which strongly suggested that existing rules and regulations adopted by Member States would be implemented on the basis of administrative decisions.

67. The statement by the Director of the Programme Planning and Budget Division proved that the bulletin would have budget implications, however slight. Similarly, his statement that changes in entitlements would not give staff members the right to sue the Organization was an acknowledgement that the bulletin involved an amendment to the rules rather than an interpretation of them.

68. Lastly, local law in many countries provided for different entitlements for different kinds of unions. The bulletin stated that domestic partnerships and marriages would be treated equally, in accordance with national legislation. Given that domestic partnerships were not always treated equally under domestic law, granting equal entitlements would go beyond the national legislation of some States.

69. **Mr. Alarcón** (Costa Rica) said that the Committee should discuss any item with financial implications, however large or small. His Government, which respected cultural diversity and the national laws and customs of other States, had accepted to contribute to the payment of benefits to the spouses of staff members in polygamous unions, even though Costa Rican law did not recognize such unions.

70. **Mr. Abelian** (Secretary of the Committee) said that the Assembly had discussed the issue in a different context under resolutions 55/224 and 57/286, in connection with a request for a report on survivors' benefits. In resolution 57/286, the Assembly had taken note of the review undertaken by the United Nations Joint Staff Pension Board and had requested the Board to examine the administrative and financial aspects of the matter and to report thereon to the Assembly at its fifty-ninth session. Issues concerning entitlements under the Pension Fund were not for the Secretary-General to decide.

71. *Mr. Pulido León (Venezuela), Vice-Chairman, took the Chair.*

72. **Mr. Kramer** (Canada) said it was clear that the social and cultural issues underlying the discussion were emotive and deeply felt and that was why the Committee should deal with them on the basis of clear organizational principles. To follow a particular practice would be to invite trouble and the principle outlined by the Secretary-General offered the best solution. Saudi Arabia had suggested that Member States should themselves pay for entitlements for staff members living in domestic partnerships. He wondered why that particular type of relationship had been singled out and not other entitlements, such as education grants for adopted children or benefits for children born of polygamous unions. It was important to operate on the basis of clear principles and not pick and choose those relationships in respect of which benefits would be paid.

73. There was no issue with respect to financial implications. Staff members had the right to marry and have children and it was not for the Fifth Committee to pronounce on whether staff were to be allowed to have twins or triplets. If delegations did not like the way in which some countries established their norms, then they should take up the matter bilaterally. He wished to know, lastly, whether the Regulations of the Pension Fund and the Staff Regulations and Rules each had a different status that would allow the Secretary-General to do certain things with the Staff Regulations and Rules that he would be unable to do with the Regulations of the Pension Fund.

74. With regard to the comment by the representative of Egypt that the policies being followed by certain countries were a road to ruin, he wished to state the following.

75. **Mr. Roshdy** (Egypt), speaking on a point of order, said that he had been incorrectly quoted. He had not referred in his earlier statement to Canada, which therefore had no business responding on the matter.

76. *Mr. Kmoníček (Czech Republic) resumed the Chair.*

77. **Mr. Kramer** (Canada) said that each country had the right to pursue its own social policies. The

Secretary-General's proposal best reflected the diversity of the international community.

78. **Ms. Udo** (Nigeria) requested that the Secretary of the Committee clarify the way forward, since he had given the impression that the Committee was awaiting a report that was due to be submitted to the Assembly at its fifty-ninth session. She wondered whether the issue would be on the Assembly's agenda for that session. Her delegation also wished to reiterate its earlier request for a breakdown of the composition of the staff on the basis of major geographical regions.

79. **Mr. Farid** (Saudi Arabia) said that his delegation was not satisfied with the Secretariat's response to its request for a list of those countries that extended legal recognition to domestic partnerships. The Assembly could not allow the practice of a small number of countries to be imposed on the majority.

80. The representative of Canada had referred to entitlements in respect of adopted children, but the Committee was discussing marriage and domestic partnerships. He wished to remind members that marriage between two men could not produce natural-born children. Additional meetings should be scheduled to discuss the issue until consensus was reached.

81. **Mr. Abbas** (Pakistan) said that the anticipated additional expenditure of 0.1 per cent meant that the proposal had clear financial implications and was therefore within the purview of the Fifth Committee. The issue was of a sensitive nature and reflected the religious, social and cultural diversity of global society. The Organization of the Islamic Conference naturally had its own preferences on the matter.

82. **Mr. Roshdy** (Egypt) insisted on having clear answers to all the questions he had asked, including those concerning local laws and whether the bulletin exceeded their scope. The issue must be resolved during the current part of the Assembly's resumed session and more time should be allocated for its discussion.

83. **Mr. Tootoonchian** (Islamic Republic of Iran) said that the Committee could move to informal consultations once replies had been received to questions posed by his delegation.

84. **Mr. Dutton** (Australia) said his delegation was satisfied with the Secretariat's responses. There was nothing before the Committee that required a decision. The only basis on which to organize staff entitlements was respect for the cultural diversity and national practices of the Organization's Members. Further discussion would lead nowhere.

85. **Ms. Astanah Banu** (Malaysia) noted the suggestion by the representative of Canada that the matter of a particular country's social policies should be taken up at the bilateral level. That was not the way in which Malaysia conducted business on matters already within the ambit of the United Nations and therefore multilateral in scope. The Fifth Committee did not become involved only when proposals entailed an increase in the regular budget. Her delegation did not agree, moreover, that discussing the issue would lead to paralysis. Written answers should be provided to the questions asked so that the Committee could move forward on the item.

86. **Mr. Rahman** (Bangladesh) reiterated his earlier request for written answers to all the questions that had been asked before the Committee entered into informal consultations on the matter. In his view, consensus would be possible only if the bulletin was withdrawn.

87. **Mr. Elnaggar** (Egypt) said there was no doubt that the matter was within the Committee's purview and that the Secretary-General himself was of the view that the General Assembly should decide on it. In his remarks to the press, the Secretary-General had said that he would wait to see what the General Assembly would decide. He was surely referring there to the Fifth Committee. It was in that context that the Committee needed to act on the issue.

88. **Mr. Kramer** (Canada) said his delegation wished to reject the comments made by the representative of Malaysia. Canada did not preach bilaterally to others about their social policy, or their entitlements to a particular family configuration. Canada, however, vigorously defended the human rights enshrined in internationally agreed instruments and used all available multilateral instruments in doing so. To frame the issue in terms of human rights showed that the discussion was straying from the budgetary, administrative and financial elements that were within the Committee's remit. It was not clear that any questions had in fact gone unanswered. The Bureau must decide how best to proceed.

89. **Mr. Eljy** (Syrian Arab Republic) said the large number of speakers reflected the importance of the issue before the Committee. He wished to remind the

Committee that his delegation had earlier raised a number of questions, including those concerning the freeze on recruitment to fill posts in the General Service category and the posting of vacancies on the Internet. His delegation was awaiting answers to its questions.

90. **Ms. Astanah Banu** (Malaysia) said that her comments in response to a previous statement by Canada regarding bilateral approaches were meant to be taken in a general and not specific sense.

91. **Ms. Udo** (Nigeria) asked when her delegation could expect answers to the questions it had asked.

92. **The Chairman** said that the Bureau would meet to discuss how best to proceed.

The meeting rose at 1 p.m.